

Rev. 12/2018

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JUL 21 2022

SEAN F. McAVOY, CLERK
DEPUTY
SPOKANE, WASHINGTON

Daniel Joseph Haggerty
Plaintiff's full name and prisoner number

Plaintiff,

v.

Case No. 2:22-cv-00175-TOR
(leave blank – for court staff only)

Department of Social and
Health Services, Eastern
State Hospital
Defendant's/defendants' full name(s)

PRISONER CIVIL RIGHTS
COMPLAINT

Defendant(s).

Jury Demand?

☒ Yes

☒ No

(If you cannot fit all of the defendants' names in the space provided, please write "see attached" in the space above and attach additional sheets of paper, as necessary, with the full list of names. The names listed here must be identical to those in Section II. Do not include addresses here. **Individuals whose names are not included in this section will not be considered defendants in this action.**)

WARNINGS

1. Do not use this form if you are challenging the validity of your criminal conviction or your criminal sentence. If you are challenging your conviction or sentence, or if you are seeking restoration of good-time credits that would shorten your sentence, you must file a Petition for Writ of Habeas Corpus. If you use this form to challenge your conviction or sentence, you risk having your claim dismissed. Separate forms are available for filing a habeas petition.
2. Under the Prison Litigation Reform Act ("PLRA"), you are required to exhaust all remedies in your institution's grievance system that are available to you before filing suit. This generally means that you must file a grievance and, if it is denied, appeal it through all available levels of review. Your case may be dismissed if you fail to exhaust administrative remedies, unless the administrative grievance process was not "available" to you within the meaning of the PLRA. You are not required to plead or show that you have exhausted your claim in this complaint.

3. Please review your complaint carefully before filing. If your case is dismissed, it may affect your ability to file future civil actions while incarcerated without prepaying the full filing fee. Under the PLRA, a prisoner who has had three or more civil actions or appeals dismissed as frivolous, malicious, or for failure to state a claim cannot file a new action without first paying the full filing fee, unless the prisoner is in imminent danger of serious bodily injury.

4. Under Federal Rule of Civil Procedure 5.2, papers filed with the court, including exhibits or attachments to a complaint, may not contain certain information, which must be modified as follows:

Do not include:

- a full social security number
- a full birth date
- the full name of a minor
- a complete financial account number

Instead, use:

- the last four digits
- the birth year
- the minor's initials
- the last four digits

5. At this stage of the proceeding, you need not submit exhibits, affidavits, grievances, witness statements, or any other materials with this complaint to the Clerk's Office. Any documents you submit *must relate directly to the claims you raise in this lawsuit*. They will become part of the court record and *will not be returned to you*.

I. PLAINTIFF INFORMATION

Haggerty Daniel Joseph

Name (Last, First, MI)

Aliases/Formal Names

209351

Jail Prisoner ID #

Spokane County Jail

Place of Detention

1100 W Mallon

Institutional Address

Spokane

County, City

WA

State

99260

Zip Code

Indicate your status:

- ☒ Pretrial detainee
- ☐ Civilly committed detainee
- ☐ Immigration detainee

- ☐ Convicted and sentenced state prisoner
- ☐ Convicted and sentenced federal prisoner

II. DEFENDANT INFORMATION

Please list the following information for each defendant. If the correct information is not provided, it could delay or prevent service of the complaint. Make sure that the defendant(s) listed below are identical to those contained in the caption on the first page of the complaint. Attach additional sheets of paper as necessary.

Defendant 1: Department of Social and Health Services
 Name (Last, First)

Current Job Title

Current Work Address

County, City

State

Zip Code

Defendant 2: Eastern State Hospital
 Name (Last, First)

Current Job Title

850 West Maple P.O. Box 800 Medical Lake, WA, 99022
 Current Work Address

Medical Lake
 County, City

WA
 State

99022
 Zip Code

Defendant 3: _____
 Name (Last, First)

Current Job Title

Current Work Address

County, City

State

Zip Code

III. STATEMENT OF CLAIM(S)

In this section, you must explain what you believe each defendant did to violate your civil rights, and if you know, identify the federal statutory or constitutional right you believe was violated.

If you believe the defendant(s) violated your civil rights in more than one way, explain each violation under a different count. For example, if you believe you received constitutionally inadequate medical care and your religious rights were substantially burdened, include one claim under "Count I" (i.e., medical) and the other claim under "Count II" (i.e., religion).

Number your paragraphs. For example, in Count I, paragraphs should be numbered 1.1, 1.2, 1.3, etc., and in Count II, paragraphs should be numbered 2.1, 2.2, 2.3, etc. The first two paragraphs of each Count have been numbered for you.

If you have more than three counts, attach additional pages and follow the same format for each count.

If you attach documents to support the facts of your claim(s), you must specify which portion of the document(s) (i.e., page and paragraph) you are relying on to support the specific fact(s) of your claim(s). If you do not specify the portion of the supporting document(s), the Court may disregard your document(s).

COUNT I

Identify the first right you believe was violated and by whom:

1.1 14th ammendment due process clause of the United States
constitution by D.S.H.S. and E.S.H.

State the facts of your first claim below. Include all the facts you consider important. Be specific about dates, times, locations, and the names of the people involved. Describe exactly what each specific defendant did or failed to do that caused you injury or violated your rights, and include any other facts that show why you believe what happened was wrong. If you need additional space, you may attach extra sheets.

1.2 I Mr Haggerty was booked into the Spokane County Jail on December
3rd 2021. On January 25, 2022, the court ordered a competency evaluation
pursuant to RCW 10.77.060. On february 15, 2022, D.S.H.S. filed
a request for an extension of evaluation time based on the Jails

Continuation of Court I, I.2

Continuation Page

1. On April 14th 2022, Mr Haggerty's Attorney, Jeffrey Leslie
 2. Filed a motion to dismiss Mr. Haggerty's charges with prejudice
 3. and also discussed verbally in court a case Mr. Haggerty
 4. had found during his research in the Law Library.
 5. The case was Shymila Nicole Luvert, filed 11-22-2021 in
 6. which the court of Appeals, Division 1, Judge Applewick, J.
 7. held that trial court had authority to award compensatory
 8. contempt sanctions (7.21.030(3)) to pre-trial detainee.
 9. Specifically, "Trial court had authority to award compensatory
 10. contempt sanctions to detainee for her losses while waiting
 11. approximately 100 days in Jail for transfer to a psychiatric
 12. hospital for an impatient competency evaluation and thus could
 13. order Department of Social and health Services (D.S.H.S.) to
 14. pay \$250.00 per day from 14 days after the initial order
 15. until transfer to an appropriate facility, even though D.S.H.S.
 16. had no means of compliance with the court's order or
 17. ability to purge the sanctions imposed for the time period
 18. before the contempt finding, the retroactive sanctions were not
 19. punitive."
 20. Timothy Fennessey, the Judge in Mr Haggerty's case, denied
 21. the motion to dismiss without prejudice on 14th Amendment
 22. violations as well as Speedy trial violations and didn't even
 23. discuss the Shymila Nicole Luvert (20 wash. App. 2d 133.
 24. No. 81767-1-I)
 25. On 6-2-2022, Mr. Haggerty again went to court on a motion
 26. to dismiss Mr. Haggerty's charges without prejudice, citing
 27. Cassie Cordell Trueblood and a Washington Supreme Court Case,
 28. State v. Hand. Mr Haggerty's Attorney also asked the court
 29. to award Mr. Haggerty almost \$20,000.00 in damages at \$250.00
 30. per day starting from March 18, 2022 to 6-2-2022 citing

Continuation of Count I, L. 2

Continuation Page

1. the Shymila Nicole Luvert case.
2. Timothy Fennessey, the Judge, denied the motion again but set
3. a court date for show cause on 6-7-2022 as to why
4. D.S.H.S. has not transferred Mr. Haggerty to Eastern State
5. Hospital for Competency restorative Services after 90 days of
6. the court order.
7. At that hearing Mr. Haggerty's Attorney, Jeffrey Leslie, asked
8. once again for contempt sanctions in front of the D.S.H.S.
9. representative, citing once again Shymila Nicole Luvert,
10. Court of Appeals decision to award compensatory damages to
11. pre-trial detainee in the amount of \$250.00 per day and
12. that the Judge has the authority in the Superior Court
13. to do this. RCW 7.21.010(3), 7.21.030(3), 7.21.020
14. Judge Timothy Fennessey signed a motion stating that Mr.
15. Haggerty was to either be put in an outside restoration
16. competency program (as part of the true blood settlement)
17. or to be transferred to E.S.H. by June 28th 2022 and that
18. contempt sanctions were up to the Court.
19. Judge Timothy Fennessey says, after ~~the~~ hearing the motion
20. and oral arguments, that he doesn't "have the authority to
21. award Mr. Haggerty damages," which completely contradicts what
22. the court did in Shymila Nicole Luvert decision.
23. It is quite clear the Judge has the authority to award contempt
24. sanctions in the amount of \$250.00 per day at the pro-rata
25. amount that the federal courts have ordered directly to
26. a pre-trial detainee.
27. It should be noted that a forensic navigator came to
28. visit Mr. Haggerty on 6-13-2022 named Jasmine Cowhill,
29. as part of the new Senate bill 5664 concerning forensic
30. competency restoration programs adopted March 31, 2022.

Continuation of Count I, I.2

Continuation Page

1. Mr. Haggerty filled all the required paperwork to enter
2. this new outside restoration program with the forensic
3. navigator in which Mr. Haggerty was told he would
4. be released to Jasmine Cowhill (Forensic navigator)
5. and then taken directly to his C.C.O. and would
6. receive housing and employment opportunities.
7. On 6-24-2022, Mr. Haggerty was released from the
8. Jail to Eastern State Hospital and not to the Forensic
9. navigator (Jasmine Cowhill) to the outside restoration
10. competency program (senate bill 5664)
11. Mr. Haggerty stayed in Jail in violation of Trueblood
12. from March 18th 2022 until June 24th 2022 after
13. he was found incompetent.

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inability to accommodate a video evaluation. On February 22, 2022, Dr. Stacy Harbottle conducted a competency evaluation on Mr. Haggerty. On February 24, 2022, Dr. Stacy Harbottle submitted a report to the Court stating she believed Mr. Haggerty did not have the capacity to productively participate in his own defense. On March 4th, 2022, the Court ~~Mr. Haggerty~~ ordered Mr. Haggerty to be admitted to E.S.H. for competency restoration for 90 days. The order states that Mr. Haggerty is to be transported to E.S.H. the earlier of 7 days from D.S.H.S. receiving the order (March 11, 2022) or 14 days from the date of the order (March 18, 2022) as required by statute and case law, including Trueblood v. Washington State Department of Social and Health Services, 101 F. Supp. 3d 1010 (W.D. Wash. 2015), vacated on other grounds, 822 F.3d 1037 (9th Cir 2016) Trueblood v Washington State Department of Social and Health Services. No C14-1178 MJP, 2017 WL 1488479, 2017 U.S. Dist. Lexis 65532 (W.D. Wash. April 26th 2017 order adopting in part the parties mediated Settlement agreement) See Attachment

State with specificity the injury, harm, or damages you believe you suffered as a result of the events you described above in Count I. Continue to number your paragraphs.

The state still consistently fails to provide timely services to people that are deemed mentally ill. Jails are not hospitals and their condition worsens as time goes on. Emotional suffering!

COUNT II

Identify the second right you believe was violated and by whom:

2.1

State the facts of your second claim below. Include all the facts you consider important. Be specific about dates, times, locations, and the names of the people involved. Describe exactly what each specific defendant did or failed to do that caused you injury or violated your rights, and include any other facts that show why you believe what happened was wrong. If you need additional space, you may attach extra sheets.

2.2

State with specificity the injury, harm, or damages you believe you suffered as a result of the events you described above in Count II. Continue to number your paragraphs.

COUNT III

Identify the third right you believe was violated and by whom:

3.1

State the facts of your third claim below. Include all the facts you consider important. Be specific about dates, times, locations, and the names of the people involved. Describe exactly what each specific defendant did or failed to do that caused you injury or violated your rights, and include any other facts that show why you believe what happened was wrong. If you need additional space, you may attach extra sheets.

3.2

State with specificity the injury, harm, or damages you believe you suffered as a result of the events you described above in Count III. Continue to number your paragraphs.

IV. RELIEF

State exactly what you want the Court to do for you. For example, you may be seeking money damages from an individual defendant, you may want the Court to order a defendant to do something or to stop doing something, or you may want both kinds of relief. Make no legal arguments. Cite no cases or statutes.

Seeking Money damages in the amount of \$250.00 per day
from March 18th 2022 to June 24th from D.S.H.S. and
E.S.H. and for an Injunction to place Mr Haggerty in the
new Senate bill 5664 outside restoration competency program

V. SIGNATURE

By signing this complaint, you represent to the Court that you believe the facts alleged to be true to the best of your knowledge, that you believe those facts show a violation of law, and that you are not filing this complaint to harass another person or for any other improper purpose.

7-18-2022
Dated

Dan Haggerty
Plaintiff's Signature